



MINUTES OF THE REGULAR MEETING
OF THE PLANNING COMMISSION
CITY COMMISSION CHAMBERS, CITY HALL
THURSDAY, FEBRUARY 21, 2013 4:30 P.M.

The Planning Commission of the City of Leesburg held its regular meeting Thursday, February 21, 2013, in the Commission Chambers at City Hall. Chairman James Argento called the meeting to order at 4:30 p.m. The following Commission members were present:

James Argento
Clell Coleman
Donald Lukich
Frazier J. Marshall
Ted Bowersox

City staff that was present included Bill Wiley, Community Development Director, Dan Miller, Senior Planner, and Dianne Pacewicz, Administrative Assistant II. City Attorney Fred Morrison was also present.

The meeting opened with an invocation given by Community Development Director Bill Wiley and the Pledge of Allegiance to the Flag.

Bill Wiley, Community Development Director, informed the audience of the rules of participation and the need to sign the speaker's registry. He also informed Commissioners and the audience of the City Commission meeting dates tentatively scheduled.

Dianne Pacewicz swore in staff as well as anyone wishing to speak.

MINUTES OF PLANNING & ZONING COMMISSION MEETING FOR JANUARY 17, 2013.

Commissioner Ted Bowersox moved to APPROVE the minutes from the January 17, 2013 meeting. Commissioner Donald Lukich SECONDED the motion, which was PASSED by a unanimous voice vote of 5 to 0.

NEW BUSINESS

1. PUBLIC HEARING CASE # PUD-13-13 – B & B RANCH – PLANNED DEVELOPMENTS REZONING APPLICATION

AN ORDINANCE OF THE CITY OF LEESBURG, FLORIDA, AMENDING AN EXISTING PUD (PLANNED UNIT DEVELOPMENT) TO CHANGE THE PERMITTED USES ON APPROXIMATELY 76 +/- ACRES FOR A PROPERTY GENERALLY LOCATED ON THE EAST SIDE OF COUNTY ROAD 48, APPROXIMATELY 0.6 MILES NORTH OF AUSTIN MERRITT ROAD AS LEGALLY DESCRIBED IN SECTION 32, TOWNSHIP 20, RANGE 24, LAKE COUNTY, FLORIDA; AND PROVIDING AN EFFECTIVE DATE. **(CONTINUED TO MARCH 21ST, 2013 PLANNING COMMISSION MEETING)**

Commissioner Don Lukich made a motion to APPROVE the continuance of case # PUD-13-13 – B & B RANCH – PLANNED DEVELOPMENTS REZONING APPLICATION. Commissioner

2. PUBLIC HEARING CASE # PUD-13-14 – GOOD NEWS CHURCH OF LEESBURG – PLANNED DEVELOPMENTS REZONING APPLICATION

AN ORDINANCE OF THE CITY OF LEESBURG, FLORIDA, REZONING APPROXIMATELY 5.68+/- ACRES FROM CITY R-3 (HIGH DENSITY RESIDENTIAL) TO CITY SPUD (SMALL PLANNED UNIT DEVELOPMENT) FOR A PROPERTY LOCATED ON THE EAST SIDE OF EXECUTIVE BOULEVARD, APPROXIMATELY 0.2 MILES SOUTH OF CR44 AS LEGALLY DESCRIBED IN SECTION 29, TOWNSHIP 19, RANGE 24, LAKE COUNTY, FLORIDA; AND PROVIDING AN EFFECTIVE DATE. **(CITY COMMISSION DATES - 1st READING ON MARCH 11TH, 2013 AND A 2ND READING ON MARCH 25TH, 2013)**

Bill Wiley entered the exhibits into record. Dan Miller presented the exhibits. The exhibit items included the staff summary, departmental review summary, staff recommendations, general location/aerial map, land use and zoning maps, wetlands and flood zone map, site photos, and conceptual site plan.

There were no substantive comments received from the departments. There were no public responses received for approval and no responses were received for disapproval.

The Planning & Zoning staff recommended the approval of the request for the following reasons:

1. The proposed SPUD (Small Planned Unit Development) zoning district is compatible with adjacent properties. This request does not appear to create a detriment to the surrounding properties.
2. The proposed SPUD (Small Planned Unit Development) zoning district is compatible with the existing City future land use designation of Industrial.
3. The rezoning of the subject property is consistent with the City's Growth Management Plan, Future Land Use Element, Goal I, Objective 1.6.

Action Requested:

1. Vote to approve the recommendation to rezone the subject property with the proposed SPUD (Small Planned Unit Development), attached hereto as Exhibit A, and forward to the City Commission for consideration.

Bill Wiley highlighted the following in the SPUD conditions to expedite:

3. LAND USES

The above-described property, containing approximately 5.68 acres, shall be used for SPUD (Small Planned Unit Development) uses as limited herein, and pursuant to City of Leesburg development codes and standards for particular uses.

A. Permitted Uses

Uses shall be those listed for the SPUD (Small Planned Unit Development) uses in the Land Development Code as permitted uses for a worship center including accessory uses for the approximate area as shown on the Conceptual Plan and as listed herein.

1) Worship Center and Accessory Uses

Uses shall be those listed for the SPUD (Small Planned Unit Development) uses in the Land Development Code as permitted uses for a worship center and uses associated therewith; private preschool/school facilities with associated uses, children's day care, classrooms, dining facilities, thrift store, recreation, festivals, and such other uses reasonably ancillary to the church use for the approximate area as shown on the Conceptual Plan.

B. Uses Prohibited shall be as follows:

- 1) All uses not permitted by the SPUD (Small Planned Unit Development)
- 2) Commercial uses not accessory to the primary worship center use
- 3) Public school uses

4. SITE ACCESS

- A. Access to the property will be from Executive Boulevard. Any additional access shall be subject to the City of Leesburg PUD amendment and site plan application review process.

Scott Strem, with Morris Realty and agent for the application, with Fran Sullivan, Board Member with Good News Church, stated that he would be happy to answer any questions.

Commissioner Lukich inquired as to where the Boys & Girls Club went. Scott Strem answered they are still using their facility in Eustis, and they have been working with local churches.

This was the end of the discussion and the voting then took place.

Commissioner Don Lukich made a motion to APPROVE case # SPUD-13-14 – GOOD NEWS CHURCH OF LEESBURG – PLANNED DEVELOPMENTS REZONING APPLICATION. Commissioner Frazier J. Marshall SECONDED the motion which, PASSED by a unanimous voice vote of 5 to 0.

3. PUBLIC HEARING CASE # VAR-13-15 – RED LOBSTER – VARIANCE

A VARIANCE FROM SECTION 25-424(C)(1)a.i. TO ALLOW THE EXISTING POLE SIGN TO REMAIN IN PLACE OF THE REQUIRED GROUND MOUNT MONUMENT SIGN; A VARIANCE FROM SECTION 25-424(C)(5)ii., TO ALLOW AN ADDITIONAL THIRTY-NINE FEET TEN INCHES (39'10") IN SIGN HEIGHT FROM THE MAXIMUM PERMITTED HEIGHT OF TWELVE (12) FEET TO FIFTY-ONE FEET TEN INCHES (51' 10"); AND A VARIANCE FROM SECTION 25-424(C)(1)a.3.i. TO ALLOW AN ADDITIONAL FORTY POINT SIX-NINE (40.69) SQUARE FEET OF SIGN COPY AREA PER FACE FROM A PERMITTED SIXTY (60) SQUARE FEET PER FACE TO NINETY NINE POINT SIX-NINE (99.69) SQUARE FEET PER FACE, FOR A PROPERTY GENERALLY LOCATED ON THE SOUTH SIDE OF US 441, EAST OF SKINNER AVENUE, AND WEST OF MABLE LANE AS LEGALLY DESCRIBED IN SECTION 23, TOWNSHIP 19S, RANGE 25E, LAKE COUNTY FLORIDA; AND PROVIDING AN EFFECTIVE DATE. **(FINAL DECISION BY PLANNING COMMISSION)**

Bill Wiley entered the exhibits into record. Dan Miller presented the exhibits. The exhibit items included the staff summary, departmental review summary, staff recommendations, general location/aerial map, land use and zoning maps, wetlands and flood zone map, site photos, and conceptual site plan.

There was one substantive comment received from the Police department.

“In no way can the Code Enforcement section of the Leesburg Police Department support this application for variance. This would make a mockery at best of the sign ordinance we have at this time. The variance sort it best suited for along an interstate not within a PUD. We also believe it could have some affect on airport operations at that height and increased copy size.” – Senior Police Officer Michael Howard – 2/11/12

There was one public response received for approval and two responses were received for disapproval.

Mr. Wiley stated that the applicant is requesting a Variance from the requirements of the code, not from what is there now. He pointed out on page 5 of the application from the Variance application the ‘Criteria for Granting Variance(s), specifically the sentence “No non-conforming use of neighboring lands, structures or buildings in the same zoning district and no permitted use of lands, structures or buildings in other zoning districts shall be considered grounds for authorization of a variance.” In effect, this says that the applicant can’t use other signs that are non-conforming to justify what they are asking for.

The Planning & Zoning staff recommended the denial of the request for the following reasons:

- A. The request does not meet the six criteria set forth in Chapter 25 “Zoning”, Section 181 “Variances” of the City of Leesburg Code of Ordinances for the granting of a variance. The criteria are listed, with staff comments following in ***bold***.
1. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district. ***Such special conditions do not exist. The request for the variance is not related to any special conditions or circumstances which are peculiar to the land, structure, or building. Many other businesses have the same applicable sign restrictions.***
 2. The special conditions and circumstances do not result from the actions of the applicant, owner or any predecessor in title. ***The applicant’s pole sign as designed, located and constructed is nonconforming and prohibited by the code; the applicant in remodeling the restaurant desires to change the size of the existing pole sign which is prohibited by the code. The request for the variance is a result of the applicant’s action of remodeling the restaurant.***
 3. The granting of this variance shall not confer on the applicant special privilege that is denied by the Zoning Ordinance to other lands, buildings, or structures in the same zoning district. ***Permitting a variance for this pole sign would allow the applicant to continue to have non-conforming sign which is not permitted of similar other signs in this district.***
 4. That literal interpretation of the provisions of the Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Zoning Ordinance and would work unnecessary and undue hardship on the applicant. ***Such a hardship has not been adequately demonstrated by the applicant. Other businesses in the area have monument signs that met code and provide adequate visibility and navigation to their properties.***
 5. The requested variance is the minimum variance that shall make possible the reasonable use of the land, building, or structures. ***The applicant has not demonstrated that a variance from existing code requirements is needed to make possible the reasonable use of the structure (sign).***
 6. That the granting of the variance will be in harmony with the general intent and purpose of the Zoning Ordinance, and such variance will not be injurious to the area involved or otherwise detrimental to the public welfare. ***The granting of the requested variance would not be in harmony with the general intent and purpose of the Zoning Ordinance, and would set a negative precedent in relation to similar properties which are required to meet the same City of Leesburg Code of Ordinance requirements. To this end the City of Leesburg offers a Sign Grant of up to \$8,000 to property owners for replacing pole signs with code complaint monument signs.***

Finding(s) and conclusion:

- A. There are no unusual circumstances or conditions that can create justification for a variance from City of Leesburg pole sign requirements.
- B. Evidence of a hardship has not been presented that demonstrate that a literal enforcement of this provision will result in an unnecessary and undue hardship to the applicant according to the criteria listed in Chapter 25-181 of the City of Leesburg Code of Ordinances. **Therefore, staff recommends denial of the proposed variance.**

Action Requested:

- A. Vote to deny the variance for the subject property for a change of the existing non-conforming pole sign as recommended by staff.

Sean Smith, representing Darden Restaurants and this application, stated that they are actually looking to drop the height of the sign down to 30 feet in overall height to be consistent and harmonious with the other

signs in the area. He stated that they are asking for relief from the sign code for a sign that has been out there for years with no issues or complaints. The reason that they have this request is that it was spurred on the remodeling of the restaurant. He said that they are a little bit unique with the building set-back and the vegetation that is currently there along US Highway 441. Mr. Smith showed pictures of the proposed sign. He also demonstrated with the pictures that when there are parked vehicles in neighboring properties like box trucks, the sign that they are proposing would still be visible from the street, whereas the monument sign required by the City would not be visible. He mentioned the access points to the restaurant and stated that advance notice and visibility of the sign is important. The sign that they are proposing is consistent with what people want to see in the area. If you start bringing signs down in that area then you would have people looking up and down and up and down. Mr. Smith stated that with the amount of traffic that is out there, signage is important.

Commissioner Bowersox asked if there are signs on the building as well. Mr. Smith replied there are and that they are code compliant. It was part of the remodeling to change the wall signs.

Attorney Morrison asked what is it that makes Red Lobster unique or different from everyone out there that is going to have the same problem. There is a timetable in the Ordinance, and in 2020 everybody will need to comply with the sign ordinance. Attorney Morrison stated that they don't want to set up a situation where everyone will say that we gave it to Red Lobster and they're no different from other places. What is it that makes Red Lobster different from everyone else up and down that corridor. Mr. Smith answered that they are going through a rebranding process, and that they are taking the cabinet off the structure instead of popping out the sign. They are also accessible from three public roads.

Attorney Morrison again asked what makes the location different from everyone else and why a shorter sign would not work. Everyone else will need to comply in 2020, why does Red Lobster deserve a taller sign than everybody else up and down that corridor. Mr. Smith answered that it would be consistent with everyone else. Attorney Morrison reiterated that in 2020, everyone will need change. Mr. Smith stated that each site is based on its own merit and should be heard on their own grounds. He is not here for the other businesses; he is here for Red Lobster. He said that to mitigate and help with traffic flow, they feel that the additional height is necessary and in harmony with the other businesses.

Commissioner Lukich asked about taking out some of the foliage where the compliant sign would go to lessen the obstruction from the trees. Mr. Wiley said that it would be possible to trim some of the foliage that is out there. Commissioner Lukich asked if they could take it out and put in grass. Mr. Wiley said that it's possible, but that is normally not the situation.

Commissioner Lukich asked if a variance could be possible to bring the pole sign closer to the street. Mr. Wiley answered that they would want to use the existing pole. He said that if they do a monument sign, they would be able to go all the way out to the sidewalk. Mr. Smith said that they are trying to be green in wanting to use the existing foundation.

Commissioner Lukich brought up the \$8000.00 sign grant available to help with the cost of the monument sign. Mr. Smith said that he agrees and he just saw that before he came up to speak.

Mr. Wiley brought up the sign permit which is currently in the Building Department onto the overhead, to show that their request was for the pole sign to go from the existing 52'10" to the proposed 51'. Commissioner Lukich said that Mr. Smith did state that they would go down to a 30 foot sign. Mr. Smith stated that they did submit the permit for that sign and that they did have a feeling that it was going to be denied. The denial of the sign permit was the starting point for the variance request.

Commissioner Marshall inquired as to what the Sign Ordinance states. Mr. Wiley said that the Sign Ordinance states that for a pole sign to be changed to a ground sign, they can put up a 12 foot monument sign with a 60 square foot per side for a total of 120 square feet.

Commissioner Coleman asked Attorney Morrison if the variance would go with the property or if they can make the variance for 6 years. Attorney Morrison answered that if this variance is approved, then the sign at this location will be taller than what is out there in 2020 when everyone else will need to comply. The variance makes it a conforming sign. Attorney Morrison said that all signs were supposed to come into compliance in 2011, but because of the economy, they extended that date to 2020.

Mr. Smith reiterated that their request of 30 feet is necessary and this relief would allow them to have the visibility of the sign that they are looking for.

Mr. Wiley stated that the staff still stands by their findings and conclusions and that there is no justification for a variance and no undue hardship has been shown.

Chairman Argento asked Attorney Morrison if the variance is set by a state statute. Attorney Morrison answered that it is set by City Ordinance which was in the application.

This was the end of the discussion and the voting then took place.

Commissioner Don Lukich made a motion to DENY the request in case # VAR-13-15 – RED LOBSTER – VARIANCE based on the findings and facts in the City staff report. Commissioner Frazier J. Marshall SECONDED the motion which, PASSED by a unanimous voice vote of 5 to 0.

DISCUSSION ITEM

Commissioner Coleman stated that he hoped the City Commission re-reviews the Sign Ordinance.

ANNOUNCEMENTS

The next scheduled meeting date is March 21, 2013.

The meeting adjourned at 5:34 p.m.

James Argento, Chairperson

Clell Coleman, Vice Chairperson

Dianne Pacewicz, Administrative Assistant II